

REMARKS

The above-referenced patent application has been reviewed in light of the Office Action referenced above. Applicants/assignees gratefully acknowledge the Examiner's indication that claims 6 and 7 contain allowable subject matter and that claims 8-15 have been allowed. Reconsideration of the above-referenced patent application in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1-22 are currently pending. All of claims 1-22 have been amended to address informalities. No new matter has been presented.

The Examiner has objected to claims 1, 2, 4, 6-8, 12, 16 and 18 based on minor informalities that do not bear on the patentability of their respective subject matter. As claims 1, 2, 4, 6-8, 12, 16 and 18 have been amended in accordance with the Examiner's suggestions (and to address other informalities), withdrawal of the objection to the claims is respectfully requested.

The Examiner has rejected claims 1-5 and 16-22 under 35 USC 103(a) based on US Published Patent Application No. 20030150274 (hereinafter "Kawanaka") in view of US Published Patent Application No. 20020133064 (hereinafter "Ueno"). This rejection is respectfully traversed.

In rejecting a claim under 35 U.S.C. § 103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness there must be some suggestion or motivation to modify or combine reference teachings (In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988)) which must be found in the prior art and not based on the application disclosure. In re Vaeck, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). In addition, the prior art reference(s) must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). It is submitted that the cited references do not meet these criteria.

Independent claim 1 recites the feature of transferring out a digital signal with a rising curve to obtain an approximate local maximum value of said rising curve and calculating said resolution of blood glucose based at least in part on this value. Similarly, independent claim 16 recites determining an approximate local maximum value of a rising curve. It is submitted that neither of the Kawanaka and Ueno documents discloses or suggests these features of claims 1 and 16.

In the present Office Action, the Examiner asserts that these features are taught by the Ueno published application. In particular, the Examiner points to Figure 6 and the accompanying text at paragraphs 63 and 64 as evidence of this assertion. It is submitted, however, that neither the cited sections nor any other portions of the Ueno document refer to or suggest either determining an approximate local maximum value of a rising curve or determining a blood glucose resolution based on such an approximate local maximum value. The cited section of Ueno merely describes a method for canceling the effects of an offset voltage of an amplifier circuit by taking the difference between two voltage readings on a curve of voltage versus time. As can be discerned from Figure 6, the exemplary readings are taken in the middle of the curve, and the local maximum value of this curve does not enter into any calculations or determinations.

As the Examiner acknowledges that Kawanaka does not disclose or suggest these features, at least these elements are missing from the cited documents. It is therefore respectfully requested that the Examiner withdraw the obviousness rejection as to claims 1 and 16.

It is noted that claims 2-5 depend from claim 1, and that claims 17-22 depend from claim 16. Therefore, these claims are patentable over the cited documents at least on the same basis as claims 1 and 16. It is respectfully requested that the Examiner also withdraw the obviousness rejection as to claims 2-5 and 17-22.

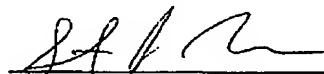
CONCLUSION

In view of the foregoing, it is respectfully asserted that all of the claims pending in this patent application are in condition for allowance. If the Examiner has any questions, he is invited to contact the undersigned at (503) 640-6475. Reconsideration of this patent application and early allowance of all of the claims is respectfully requested.

Respectfully submitted,

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